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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,713	12/02/2003	Yoshihiro Ikoma	65933-055	2215
7590	03/29/2006		EXAMINER	
McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			CHUO, TONY SHENG HSIANG	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/724,713	IKOMA, YOSHIHIRO
	Examiner Tony Chuo	Art Unit 1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/2/03.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Terazono et al (US 2002/0009626). The Terazono reference teaches a fuel cell comprising an anode electrode, a cathode electrode, and a solid polymer electrolyte membrane between the electrodes wherein the cathode comprises a gas diffusion layer such as carbon paper or carbon cloth and a catalyst layer formed over the gas diffusion layer. In addition, it also teaches a catalyst layer comprising a first carbon particle, carbon black, a platinum metal supported on the carbon black, an ion exchange resin made of a copolymer, and a second carbon particle, a graphitized carbon black that has a water repellent surface (See paragraphs [0008],[0039],[0042]). Further, the graphitized carbon black has an average value of lattice spacing of the [002] plane, d_{002} , of 0.344 nm and a crystallite size in a direction of c-axis, $L_c(002)$, of 6.0 nm (See paragraph [0051]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-8 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terazono et al (US 2002/0009626) in view of Koschany et al (US 6451470). The Terazono reference is applied to claims 1-4 and 9-12 for reasons stated above. However, the reference does not expressly teach a gas diffusion layer that includes a first carbon particle and a second carbon particle. The Koschany reference does teach a gas diffusion layer that includes a carbon fiber nonwoven fabric filled with graphite (See column 4, lines 16-33 and column 5, lines 54-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Terazono fuel cell to include a gas diffusion layer that is filled with graphite, so that the effective diffusion constant for reaction gases is sufficiently high while the effective diffusion constant for water is sufficiently low.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Chuo whose telephone number is (571) 272-0717. The examiner can normally be reached on M-F, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

u 3/24/06

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Michael Barr".